

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

KEVIN CELLARS, et al.,

Plaintiffs,

v.

PNC BANK, N.A.,

Defendant.

Civil Action No. 15-2781 (MAS) (TJB)

**MEMORANDUM ORDER ADOPTING
REPORT & RECOMMENDATION OF
THE MAGISTRATE JUDGE**

THIS MATTER comes before the Court upon the Report and Recommendation (“R&R”) of the Honorable Tonianne J. Bongiovanni, U.S.M.J., with regard to Brianna L. Harvey’s (“Brianna L. Harvey” or “Ms. Harvey”) failure to comply with the Court’s Orders. (ECF No. 20.) According to the R&R, the central issue in this case is alleged unauthorized transactions by Ms. Harvey from Plaintiffs’ PNC Bank account. (R&R 1.) Ms. Harvey’s testimony, therefore, is critical to Plaintiffs’ case. (*Id.*) The R&R sets forth in detail Ms. Harvey’s failure to comply with: (1) the original deposition subpoena; (2) the Court’s Order granting the motion to compel deposition subpoena (ECF No. 10); and (3) the Court’s Order to Show Cause as to Why Ms. Harvey should not be held in contempt (ECF No. 13). (R&R 1-3.) The R&R also sets forth the legal standard and ultimately recommends that the Court hold Ms. Harvey in contempt. The Court, having received no objections pursuant to Local Civil Rule 72.1(c)(2), and having reviewed the R&R and other documents on file in this matter, and for good cause shown,

IT IS on this 21st day of May 2018,

ORDERED THAT:

1. The R&R of Magistrate Judge Bongiovanni (ECF No. 20), is hereby **ADOPTED** as the findings of fact and conclusions of law of this Court, with the exception that

the Court will provide Ms. Harvey with one final opportunity to appear for a deposition in this matter.

2. **The Court finds Brianna L. Harvey in contempt.**
3. Brianna L. Harvey must appear for a deposition by **June 21, 2018**. Failure to appear for a deposition by **June 21, 2018** will result in the issuance of a warrant for Brianna L. Harvey's immediate arrest.
4. Defendant must serve a copy of this Order upon Brianna L. Harvey and must submit proof of service on Brianna L. Harvey by **May 31, 2018**.

s/ Michael A. Shipp
MICHAEL A. SHIPP
UNITED STATES DISTRICT JUDGE